APPENDIX A

Statutes Involved

Review Act of 1950 (5 U.S.C. §§1031-1042)

"SEC. 2 [5 U.S.C. § 1032]. The court of appeals shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of, all final orders (a) of the Federal Communications Commission made reviewable in accordance with the provisions of section 402(a) of the Communications Act of 1934, as amended, and (b) of the Secretary of Agriculture made under the Packers and Stockyards Act, 1921, as amended, and under the Perishable Agricultural Commodities Act, 1930, as amended, except orders issued under sections 309(e) and 317 of the Packers and Stockyards Act and section 7(a) of the Perishable Agriculture Commodities Act, and (c) such final orders of the United States Maritime Commission or the Federal Maritime Board or the Maritime Administration entered under authority of the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended, as are now subject to judicial review pursuant to the provisions of section 31, Shipping Act, 1916, as amended.

"Such jurisdiction shall be invoked by the filing of a petition as provided in section 4 hereof."

Merchant Marine Act, 1936 (46 U.S.C. §§1101-1294)

"SEC. 240 [46 U.S.C. § 1114]. (a) All the functions, powers, and duties vested in the former United States Shipping Board by the Shipping Act, 1916, the Merchant Marine Act, 1920, the Merchant Marine Act, 1928, the Intercoastal Shipping Act, 1933, and amendments to those Acts, and now vested in the Department of Commerce pursuant to section 12 of the President's Executive order of June 10, 1933, are hereby transferred to the United States Maritime Commission: *Provided, however*, That

after the date of the passage of this Act no further construction loans shall be made under the provisions of section 11 of the Merchant Marine Act, 1920, as amended.

"(b) The Commission is hereby authorized to adopt all necessary rules and regulations to carry out the powers, duties, and functions vested in it by this Act.

"(c) The orders issued by the United States Maritime Commission in the exercise of the powers transferred to it by this title shall be enforced in the same manner as heretofore provided by law for enforcement of the orders issued by the former United States Shipping Board, and violation of such orders shall subject the persons or corporation guilty of such violation to the same penalties or punishment as heretofore provided for violation of the orders of said Board.

* * *

"SEC. 805 [46 U.S.C. § 1223]. (a) It shall be unlawful to award or pay any subsidy to any contractor under authority of title VI of this Act, or to charter any vessel to any person under title VII of this Act, if said contractor or charterer, or any holding company, subsidiary, affiliate, or associate of such contractor or charterer, or any officer, director, agent, or executive thereof, directly or indirectly, shall own, operate, or charter any vessel or vessels engaged in the domestic intercoastal or coastwise service, or own any pecuniary interest, directly or indirectly, in any person or concern that owns, charters, or operates any vessel or vessels in the domestic intercoastal or coastwise service, without the written permission of the Commission. Every person, firm, or corporation having any interest in such application shall be permitted to intervene and the Commission shall give a hearing to the applicant and the intervenors. The Commission shall not grant any such application if the Commision finds it will result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service or that

it would be prejudicial to the objects and policy of this Act: *Provided*, That if such contractor or other person above-described or a predecessor in interest was in bona-fide operation as a common carrier by water in the domestic, intercoastal, or coastwise trade in 1935 over the route or routes or in the trade or trades for which application is made and has so operated since that time or if engaged in furnishing seasonal service only, was in bona-fide operation in 1935 during the season ordinarily covered by its operation, except in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall grant such permission without requiring further proof that public interest and convenience will be served by such operation, and without further proceedings as to the competition in such route or trade.

"If such application be allowed, it shall be unlawful for any of the persons mentioned in this section to divert, directly or indirectly, any moneys, property, or other thing of value, used in foreign-trade operations, for which a subsidy is paid by the United States, into any such coastwise or intercoastal operations; and whosoever shall violate this provision shall be guilty of a misdemeanor.

* * *

"SEC. 903. [49 Stat. 2016]. The following Acts and parts of Acts shall stand repealed:

(a) All of the provisions of sections 3 to 8, inclusive, section 10, section 11, section 35, and section 43 of the Shipping Act, 1916, as amended.

(b) All of the provisions of subsection (b)(4) of section 2, section 3, section 11, section 14, and section 35 of the Merchant Marine Act, 1920, as amended.

(c) All of the provisions of sections 201, 301, 302, 401 to 413, inclusive, 601, and 702 of the Merchant Marine Act, 1928, as amended: *Provided*, That any contract lawfully

entered into under authority of sections 401 to 413, inclusive, of such Act shall remain in full force and effect as though these sections were not repealed, subject, however, to the further provisions of this Act.

(d) The last sentence in section 3 of the Intercoastal Shipping Act, 1933."

"SEC. 904. [46 U.S.C. § 1243]. Whenever the words 'United States Shipping Board' or the words 'the Board' are used in any prior Act, such Acts are hereby amended so that such words shall be applicable to the United States Maritime Commission."

Shipping Act, 1916 (46 U.S.C. §§ 801-842)

"SEC. 23 [46 U.S.C. § 822]. Orders of the board relating to any violation of this Act shall be made only after full hearing, and upon a sworn complaint or in proceedings instituted of its own motion.

"All orders of the United States Maritime Commission, other than for the payment of money, made under this Act, as amended or supplemented, shall continue in force until its further order, or for a specified period of time, as shall be prescribed in the order, unless the same shall be suspended, or modified, or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

* * *

"SEC. 31 [46 U.S.C. § 830]. That the venue and procedure in the courts of the United States in suits brought to enforce, suspend, or set aside, in whole or in part, any order of the board shall, except as herein otherwise provided, be the same as in similar suits in regard to orders of the Interstate Commerce Commission, but such suits may also be maintained in any district court having jurisdiction of the parties."

APPENDIX B

Opinion Below

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14,007

PACIFIC FAR EAST LINE, INC., PETITIONER

v.

UNITED STATES OF AMERICA, FEDERAL MARITIME BOARD, MARITIME ADMINISTRATION, and CLARENCE G. MORSE, Maritime Administrator, RESPONDENTS

MATSON NAVIGATION COMPANY, INTERVENOR

On Petition for Review of Order of the Federal Maritime Board and Maritime Administrator

---

Decided May 1, 1958

Mr. Odell Kominers, with whom *Mr. J. Alton Boyer* was on the brief, for petitioner. *Mr. John C. Wren* also entered an appearance for petitioner.

Mr. Daniel M. Friedman, Attorney, Department of Justice, for respondent, United States of America.

Mr. Edward Aptaker, Chief, Regulations Branch, Federal Maritime Board, with whom *Messrs. Robert E. Mitchell*, Assistant General Counsel, Federal Maritime Board, and *Edward Schmeltzer*, Attorney, Federal Maritime Board, were on the brief, for respondents, Federal Maritime Board, Maritime Administration, and Clarence G. Morse, Maritime Administrator.

Mr. Alvin J. Rockwell, with whom *Mr. Willis R. Deming* was on the brief, for intervenor.

Before EDGERTON, Chief Judge, and WILBUR K. MILLER and BASTIAN, Circuit Judges.

PER CURIAM: This is a petition to review an order of the Federal Maritime Board (Board) and the Maritime Administrator (Administrator) entered under Section 805 (a) of the Merchant Marine Act of 1936, 46 U.S.C. § 1223, denying the application of Pacific Far East Line, Inc. (PFEL), filed in 1954 pursuant to the Act,[1] for its unsubsidized vessels to transport cargo in domestic trade between the West Coast of the United States and Hawaii. Extensive hearings on the application were held before an examiner. Matson Navigation Company (Matson), intervenor herein, a company presently carrying 98% of the cargo being shipped between the West Coast and Hawaii, opposed the application. The examiner recommended granting PFEL's application but the Board and the Administrator reversed and denied PFEL's application, holding that such service would be "unfair competition" to Matson. Petitioner thereupon sought review in this court.

PFEL claims, among other things, that this court has jurisdiction under the Judicial Review Act of 1950, 64 STAT. 1129, as amended, 5 U.S.C. §§ 1031-42, to review the order denying the application. Section 2 of the Act provides in relevant part as follows:

> "The court of appeals shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of . . . such final orders of the United States Maritime Commission or

---

[1] Under Section 805 (a) it is unlawful, without the Board's written permission, to pay a subsidy to any contractor engaged in foreign commerce if such contractor is also engaged in domestic coastwise service. This section further provides that the Board "shall not grant any such application" which it finds "will result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service or that it would be prejudicial to the objects and policy of this Act."

the Federal Maritime Board or the Maritime Administration entered under authority of the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended, as are now subject to judicial review pursuant to the provisions of section [31, Shipping Act, 1916, as amended]."

Section 31 of the Shipping Act of 1916, as amended, 46 U.S.C. § 830, provides:

"The venue and procedure in the courts of the United States in suits brought to enforce, suspend, or set aside, in whole or in part, any order of the Federal Maritime Board shall, except as otherwise provided, be the same as in similar suits in regard to orders of the Interstate Commerce Commission, but such suits may also be maintained in any district court having jurisdiction of the parties."

PFEL contends that the Merchant Marine Act of 1936 is part of the Shipping Act of 1916, as amended within the meaning of the Judicial Review Act of 1950, and that orders issued under the Merchant Marine Act were "entered under the authority of the Shipping Act, 1916, as amended." Therefore, petitioner believes this court has jurisdiction to review the order in this case. We reach a contrary conclusion.

Section 2 of the Judicial Review Act of 1950 on its face limits the jurisdiction of this court to review "such final orders of the . . . Federal Maritime Board or the Maritime Administration entered under authority of the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended, as are now subject to judicial review pursuant to the provisions of Section 31, Shipping Act, 1916, as amended." No other statute is mentioned. PFEL appeals from an order entered under authority of the Merchant Marine Act, 1936. It seems clear, from a "plain meaning" reading thereof, that the Judicial Review Act of 1950 does not vest this court with jurisdiction to review this order, certainly not in the

first instance. We do not find that this produces an unreasonable result, or one plainly at variance with the policy of the legislation as a whole, or that legislative history requires a different interpretation. *Cf. United States* v. *American Trucking Assn's*, 310 U.S. 534, 543.

PFEL has filed a companion suit in the District Court seeking review of the same order. We, of course, express no opinion as to the jurisdiction of that court.

The petition for review will be dismissed for lack of jurisdiction.

Dismissed

APPENDIX C

Reorganization Plan No. 21 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

PART I. FEDERAL MARITIME BOARD

SECTION 101. *Creation of Federal Maritime Board.*—There is hereby established a Federal Maritime Board, hereinafter referred to as the Board.

* * *

SEC. 104. *Transfer of regulatory functions to the Board.*—The following functions of the United States Maritime Commission are hereby transferred to the Board:

(1) All functions under the provisions of sections 14 to 20, inclusive, and sections 22 to 33, inclusive, of the Shipping Act, 1916, as amended (46 U.S.C. 812-819 and 821-832), including such functions with respect to the regulation and control of rates, services, practices, and agreements of common carriers by water and of other persons

(2) All functions with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water under the provisions of the Intercoastal Shipping Act, 1933, as amended (46 U.S.C. 843-848).

(3) The functions with respect to the making of rules and regulations affecting shipping in the foreign trade to adjust or meet conditions unfavorable to such shipping, and with respect to the approval, suspension, modification, or annulment of rules or regulations of other Federal agencies affecting shipping in the foreign trade, under the provisions of section 19 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 876), exclusive of subsection (1) (a) thereof.

(4) The functions with respect to investigating discriminatory rates, charges, classifications, and practices in the foreign trade, and with respect to recommending legislation to correct such discrimination, under the provisions of section 212 (e) of the Merchant Marine Act, 1936 (46 U.S.C. 1122 (e)).

(5) So much of the functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U.S.C. 820), as relates to the functions of the Board under the provisions of sections 104 (1) to 104 (4), inclusive, of this reorganization plan.

SEC. 105. *Transfer or subsidy award and other functions to the Board.*—The following functions of the United States Maritime Commission are hereby transferred to the Board:

* * *

(3) All functions under the provisions of section 12 of the Shipping Act, 1916, as amended (46 U.S.C. 811), including such functions with respect to making investigations and reports on relative costs and on marine insurance.

(4) So much of the functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U.S.C. 820), as relates to the functions of the Board under the provisions of sections 105 (1) to 105 (3), inclusive, of this reorganization plan.

* * *

Part II. Maritime Administration

Section 201. *Creation of Maritime Administration.* There is hereby established in the Department of Commerce a Maritime Administration.

Sec. 202. *Maritime Administrator.*—There shall be at the head of the Maritime Administration a Maritime Administrator, hereinafter referred to as the Administrator. The chairman provided for in section 102 of this reorganization plan shall, ex officio, be the Administrator. The Administrator shall perform such duties as the Secretary of Commerce shall prescribe.

* * *

Sec. 204. *Transfer of functions.*—Except as otherwise provided in part I of this reorganization plan, all functions of the United States Maritime Commission and of the Chairman of said Commission are hereby transferred to the Secretary of Commerce. The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by the Maritime Administrator of any function transferred to such Secretary by the provisions of this reorganization plan.

Part III. General Provisions

* * *

Sec. 306. *Abolition of Maritime Commission.*—The United States Maritime Commission, including the offices of the members of the Commission, is hereby abolished.

and the Secretary of Commerce shall provide for the termination of any outstanding affairs of the Commission not otherwise provided for in this reorganization plan.

* * *

APPENDIX D

Summary of the Legislative History of the Review Act of 1950

Congress intended in the Review Act of 1950 (1) "To relieve the Supreme Court from the burden of hearing appeals as of right", as under the Urgent Deficiencies Act; (2) "To provide a review as of right in an appellate court, that is in a circuit court of appeals"; (3) "To provide for review on certiorari in the Supreme Court"; and (4) To standardize and "improve the procedure on review", of orders of the agencies named therein.[1] H. R. 2916, 81st Congress, 1st Session, a predecessor bill of that enacted as the Review Act of 1950, proposed that the courts of appeals would have jurisdiction to review only orders entered under authority of "sections 15, 17, 18 and 19 of the Shipping Act, 1916, as amended . . .; and sections 3 and 4 of the Intercoastal Shipping Act, as amended . . .". However, on March 10, 1949, Paul D. Page, Jr., Solicitor, Maritime Commission, testified before a subcommittee of the House Judiciary Committee:[2]

> "There are two particulars in which we feel that the act as drawn can be helped by amendment. The first is that we do not feel it is sufficiently all-inclusive. *We have never taken the position that any of our orders are not reviewable. We advocate judicial review of our orders.*

---

[1] Hearings before Subcommittee Nos. 3 and 4 of the Committee on the Judiciary, House of Representatives, on H. R. 1468, H. R. 1470, and H. R. 2271, 80th Congress, and before Subcommittee No. 2 on H. R. 2915 and H. R. 2916, 81st Congress ("Providing for the Review of Orders of Certain Agencies, etc."), page 90.

[2] *Id.*, page 137.

"The act as drawn specifies appeals from orders made under certain sections of our act. It omits the section under which a vast majority of our orders are issued, section 22 of the Shipping Act, 1916, and we feel, and this is shown in our written report, and I will not elaborate upon it, that *the provisions of this act should apply to all reviewable orders of the Maritime Commission*".

On April 1, 1949, Mr. Page further testified (149-50):

"MR. PAGE. Mr. Chairman, as it stood at the last hearing we were somewhat *fearful that the bill would have precluded review of some cases*, and there might also have been some confusion as to whether it conflicted with the specific provisions for review in the Shipping Act and possibly certain provisions in the Administrative Procedure Act.

Between Mr. Tolman and Judge Phillips' committee we have agreed upon an amendment which we feel *prevents any such possibility* . . .

The Chairman of the Maritime Commission similarly advised the subcommittee:

"In the opinion of the Commission, however, the provisions of the bill should be sharpened so as to make clear that the new procedure shall apply to *reviewable orders* of the regulatory agencies involved . . .

"As now written, the bill applies to Maritime Commission orders issued under sections 15, 17, 18, and 22 of the Shipping Act, 1916 (46 U.S.C., Secs. 814-815, 817-818) and sections 3 and 4 of the Intercoastal Shipping Act, 1933, as amended (46 U.S.C. secs. 845 and 845a). *The Commission issues other reviewable orders.* In view of the prime purpose of the bill it seems clear that *its minimum effect should be the substitution of the new procedure for the old with respect to all reviewable orders of the Commission*. As it stands the bill would not apply to orders other than those issued under the specified sections of the Shipping Act, 1916, and the Intercoastal Shipping Act

1933, and while the Commission has not been able to make a statistical investigation to ascertain the number of orders issued under various sections of the acts administered by the Commission, it can be definitely stated that the largest number of important regulatory orders which the Commission issues comes under section 22 of the Shipping Act, 1916. The bill as written would not alter existing procedure as to such orders, and therefore would clearly fail in its purpose of reducing the work load of the Supreme Court as much as possible.

"This suggestion in no way advocates that the bill be so drafted as to confer rights to review in addition to those now authorized by law, but is designed to secure uniform procedure with respect to *all reviewable orders*" (page 145).

* * * *

"Summarizing, the Maritime Commission agrees with the primary objective of the bill. It suggests amendment to the bill as heretofore indicated in order to make the procedure set out more effective, by making it cover *all reviewable orders*, and by insuring to the Maritime Commission and like agencies full and independent representation in the courts" (page 147).

The amendment proposed by Mr. Page and the Commission's Chairman was precisely that adopted in the final Act. Thus, the legislative history of the Review Act is conclusive evidence of an overriding intention by Congress that the Review Act should embrace *all* judicially reviewable orders—and Congress adopted *verbatim* the language which the Maritime Commission advised it would accomplish that end. Nowhere was there any indication of an intention to exclude orders relating to the 1936 Act.

The legislative history of the Review Act proves also that the inclusion by Congress of orders of the Maritime Administration was a deliberate and meaningful act. H. R. 5487, the bill which became the Review Act, was reported by the House Judiciary Committee in May, 1950 (H. Rept.

2122, 81st Cong., 2d Sess. (1950)). As reported, it referred only to the Maritime Commission. However, also in May, 1950, the Maritime Commission was succeeded by the Federal Maritime Board and Maritime Administration under Reorganization Plan No. 21 (Appendix C). On June 6, 1950, H. R. 5487 was amended in the House also to include orders of the newly created Federal Maritime Board, but not the Administration; and it so passed the House (96 Cong. Rec. 8066-8068).

On December 11, 1950, prior to its enactment, when the Senate Judiciary Committee favorably reported the House bill, it proposed also to add orders of the Maritime Administration (S. Rept. 2618, 81st Cong., 2d Sess.). On December 15, the Senate adopted that proposal and expressly amended the bill to add orders of the Maritime Administration (96 Cong. Rec. 16,626-16,627). On December 18 the matter again came before the House, which reconsidered and approved the Senate amendment (96 Cong. Rec. 16,728). Thus, seven months after the Reorganization Plan went into effect, and six months after H. R. 5487 was amended to add the Federal Maritime Board, it was further extended to include orders of the Maritime Administration, and that extension was specifically considered and approved on three separate occasions—by the Senate Judiciary Committee, by the full Senate, and by the House of Representatives.

APPENDIX E

Terminology Employed to Describe the Various Laws Administered by the Federal Maritime Board and Maritime Administration

The laws administered by the Maritime agencies include

Shipping Act, 1916	(46 U.S.C. §§ 801-842
Merchant Marine Act, 1920	(46 U.S.C. §§ 861-889
Merchant Marine Act, 1928	(46 U.S.C. §§ 891-891h
Intercoastal Shipping Act, 1933	(46 U.S.C. §§ 843-845
Merchant Marine Act, 1936	(46 U.S.C. §§ 1101-1294

Although the above descriptions are frequently separately employed, there has also been considerable inconsistency, overlapping, and interchange both in the Congress and by the agencies.

1. The term "Shipping Act, 1916" was not employed in the original 1916 Act. It did not become so known until amendments thereto enacted as Public Law 198, 65th Congress, approved July 15, 1918, 40 Stat. 900.

2. The preamble to the 1933 Act stated that it was "an Act amending the Shipping Act, 1916, as amended . . .", but was nevertheless given a separate designation, *i.e.*, "Intercoastal Shipping Act, 1933". The 1916 Act was also amended by the 1920, 1928, and 1936 Acts, which nevertheless were also given separate designations.

3. The Report to the Select Committee to Investigate the Executive Agencies of the Government, pursuant to S. Res. 217 (74th Cong.), No. 12, Report on the Government Activities in the Field of Transportation (75th Cong., 1st Sess., 1937), page 50, referred to the Shipping Act, 1916, as the "Merchant Marine Act, 1916"; at page 95 it referred to the 1916 Act and the Merchant Marine Act, 1920, as the "Shipping Acts of 1916 and 1920".

4. The Task Force Report on Regulatory Commissions [Appendix N], prepared for the Commission on Organization of the Executive Branch of the Government, January, 1949, page 67, referred to the 1936 Act as the "Maritime Act of 1936". So also did the Chairman of the Merchant Marine Subcommittee of the Senate Interstate and Foreign Commerce Committee in Hearings on S. 1516, 76th Cong., 1st Sess. (1939), page 35.

5. In testimony before a House subcommittee of the Committee on Appropriations upon the Independent Offices Appropriation Bill for 1948, 80th Cong., 1st Sess. (1947), Part 2, page 907, the Director of the Budget Division of

the Maritime Commission referred to "the Merchant Marine Act of 1936, and other shipping statutes".

6. The Report of the President's Advisory Committee on the Merchant Marine, November 1947, page 61, refers to the Merchant Marine Act, 1920, as the "Shipping Act of 1920".

7. S. Rept. 2494, 81st Cong., 2d Sess. (1950), Final Report of the Senate Committee on Interstate and Foreign Commerce, pursuant to S. Res. 50 ("Merchant Marine Study and Investigation"), referred at page 69 to "the 1916, 1920, 1928, and 1936 Merchant Marine Acts". At page 91 it recommended that "the Merchant Marine Acts of 1916, 1920, 1928, 1936, 1946 and the Intercoastal Shipping Act of 1933" be codified under a single statute. At page 84 it again referred to "The Merchant Marine Act of 1936, as amended".

8. In *Meacham Corp. v. United States*, 207 F. 2d 535, 537 (4th Cir. 1953), the Court having previously referred to the Shipping Act, 1916, then referred to the Merchant Marine Act, 1920 as "the amendatory Act of 1920".

9. Former Chairman Gatov of the Federal Maritime Board referred to the Merchant Marine Act, 1936, as the "Shipping Act of 1936". Hearings before a Subcommittee of the House Committee on Appropriations on H. R. 4577 ("Departments of State, Justice, and Commerce Appropriations for 1954"), 83d Cong., 1st Sess. (1953), page 387.

10. The Preliminary Report of the Special Subcommittee to Study Maritime Subsidy Program, Senate Interstate and Foreign Commerce Committee, 83d Cong., 2d Sess. (1954), page 1, referred to the "Merchant Marine Act, 1936, as amended and other shipping acts" and to "our national shipping laws".

11. In the Hearings of the Senate Interstate and Foreign Commerce Committee, 83d Cong., 2d Sess. (1954

Part I, pursuant to S. Res. 173, page 4. Former Chairman Rothschild of the Federal Maritime Board referred to the "Shipping Act 1916 and related merchant marine laws".

12. The present Chairman of the Federal Maritime Board and Maritime Administrator, Mr. Morse, has himself referred to the Merchant Marine Act, 1936, as one of the "shipping acts". Hearings before the House Appropriations Committee on "Department of Commerce and Related Agencies Appropriations for 1956", 84th Cong., 1st Sess. (1955), page 471.

13. Chairman Morse has also referred to the Merchant Marine Acts of 1920 and 1928 as "the Shipping Acts of . . . 1920 [and] 1928, . . .". Hearings on H. R. 5734, House Committee on Merchant Marine and Fisheries, 84th Cong., 1st Sess. (1955), page 4 ("Labor-Management Problems of the American Merchant Marine"). He has also referred to the 1916 Act as "the *first* comprehensive Shipping Act in 1916", and to "the Shipping Act, 1916, and related merchant marine laws". Hearings before the House Committee on Merchant Marine and Fisheries, 85th Cong., 1st Sess. (1957) ("Study of Vessel Transfer, Trade-In and Reserve Fleet Policies"), pages 53, 55.

14. The Senate Interstate and Foreign Commerce Committee has referred to the Shipping Act, 1916, as amended, as the "Merchant Marine Act of 1916, as amended". S. Rept. 1709, 85th Cong., 2d Sess. (June 13, 1958), page 4, quoting from S. Rept. 2494, 81st Cong., 2d Sess. (1950).

In view of the above, petitioner submits that the Court of Appeals clearly erred in summarily holding that upon a "plain meaning reading" the term "Shipping Act 1916, as amended" could not have been intended to include the "Merchant Marine Act, 1936."